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09/540,730	03/31/2000	Hans Eberle	1004-4255	1940

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EXAMINER

LEE, TIMOTHY L

ART UNIT	PAPER NUMBER
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2662

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No:

09/540,730

Applicant(s)

EBERLE ET AL.

Examiner

Timothy Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9hy. 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-11, 18, 19, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lea (US 6,115,373).
3. Regarding claims 1, 7, and 18, Lea discloses a network that employs unbuffered switches that can handle both ATM and IP traffic. The unbuffered switches contain a plurality of input and output ports for receiving and transmitting traffic—these ports would logically be connected to nodes that are performing the receiving and transmitting (the switched network including a buffer-less switch coupling the sending nodes and the receiving nodes). See at least col. 2, line 58-col. 3, line 4. It is inherent that packets would be transmitted from the sending nodes connected to the input ports of the switch. The disclosure mentions nothing about changing the forwarding rates of the incoming packets, so the system forwards the incoming packets at the same rate that they were received. Regarding claims 7, 14, and 30 more specifically, Lea discloses that transmissions are divided into four different classes. The non-interleaving of IP packets provides a number of advantages, including allowing packet-based discarding. See col. 3, line 58-col. 4, line 34. Since multiple inputs can request the same output, some traffic must from time to time be blocked. The controller decides which of competing requests to grant on

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the basis of the priority level of the incoming data (if a first and second packet simultaneously request a switch resource, selecting one of the first and second packet a winner and one a loser). Obviously, the packet that gets transmitted turns out to be the winner, and the one that gets discarded turns out to be the loser. See col. 5, lines 31-46.

4. Regarding claims 2, 3, and 6, Lea discloses that an acknowledgment signal will be sent after data traffic reaches its destination. Lea also discloses that the acknowledgement has to be received before the next slot begins transmission, so there is a predetermined time that the acknowledgment signal has to be received in order for the source to know that the data was sent correctly. See col. 5, lines 47-62.

5. Regarding claim 8, Lea discloses that each transmission "slot" contains information including destination bits which are used for path set-up at each stage. See col. 5, lines 8-16.

6. Regarding claims 9 and 10, Lea discloses that when two inputs with the same priority request the same output link, the comparator will choose one of the two inputs randomly. See col. 5, lines 31-46. Lea also discloses that it is possible to add several stages of randomization nodes to evenly distribute the traffic. See col. 7, lines 46-62.

7. Regarding claim 11, Lea does not disclose anything about pre-allocating buffer space in the buffer before the packet is sent.

8. Regarding claim 19, Lea discloses that that network includes a plurality of unbuffered switches, so there can be a first and second switch in the system connected to the various inputs and outputs. See col. 2, lines 14-34.

9. Regarding claim 29, Lea discloses that the unbuffered self-routing network can consist of multiple stages. See col. 4, lines 45-56.

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***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 5, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lea in view of Jaffe et al. (US 5,359,320) and in light of the rejection to claims 3 and 11. Lea does not expressly disclose sending a negative acknowledgement packet when an error in transmission is detected by the receiving node. Jaffe et al. discloses sending a NAK by the receiving node to the transmitting node if the node was too busy to properly buffer the message (NAK sent indicating packet associated with the buffer overflow was not successfully received). See col. 5, line 60- col. 6, line 16. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use NAK signals to indicate that a receiving error had occurred. One of ordinary skill in the art would have been motivated to do this because sending this NAK signal would indicate to the transmitter that the transmission was not successful, so then the transmitter can act accordingly to fix the problem.

12. Claims 13 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lea in view of Charny et al. (US 6,072,772) and in light of the rejections to claims 1 and 18. Lea does not expressly disclose the sending nodes sending packets to send registers. Charny et al. discloses various input links connected to input ports which are further connected to input queues—these input buffers act as send registers by holding the data and acting as an intermediary between the sending nodes and the switch itself. See col. 6, lines 12-20. The

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acknowledgements can then be sent back to this intermediary to see if the packets were sent properly—this could act as the status register. The rejections of claims 24-28 follow from similar rejections of claims mentioned previously. It would have been obvious to a person of ordinary skill in the art to use input buffers as send registers. One of ordinary skill in the art would have been motivated to do this because this intermediary step could hold data and free up the sending node from being responsible for this task, thus freeing it to perform other functions.

13. Claims 14<sup>17</sup> and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lea and in light of the rejection to claim 1. Lea does not expressly disclose forwarding packets on a first come first served basis; however, it is well-known in the art that ATM supports constant bit rate services. It would have been obvious to a person of ordinary skill in the art to have the system of Lea support CBR. One would have been motivated to do this because Lea mentions that there are four different classes of services, and one of those classes include real-time traffic, and real-time traffic can depend on constant bit rate to transport data.

14. Regarding claim 15, Lea discloses that when two inputs with the same priority request the same output link, the comparator will choose one of the two inputs randomly. See col. 5, lines 31-46. Lea also discloses that it is possible to add several stages of randomization nodes to evenly distribute the traffic. See col. 7, lines 46-62.

15. Regarding claim 16, real-time traffic packets, which fall under Class 2 type traffic, can be considered low-latency packets. See col. 4, lines 5-9.

16. Regarding claim 17, Lea discloses that an acknowledgment signal will be sent after data traffic reaches its destination. Lea also discloses that the acknowledgement has to be received before the next slot begins transmission, so there is a predetermined time that the

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acknowledgment signal has to be received in order for the source to know that the data was sent correctly. See col. 5, lines 47-62.

***Response to Arguments***

17. Applicant's arguments filed October 9, 2003 have been fully considered but they are not persuasive.

18. In response to Applicant's argument that Lea does not disclose forwarding data at a fixed forwarding rate, the Examiner respectfully disagrees. Applicant argues that, for example, if the system of Lea receives the packets at a variable rate, then forwarding the incoming packets at the same rate at which they were received results in forwarding incoming packets at a variable rate. Following this line of reasoning then, if the system of Lea receives packets at a constant bit rate, then the system will be forwarding the incoming packets at the same constant bit rate, which is also known as a fixed rate. Lea discloses in col. 4, lines 1-15 that the system can handle real-time traffic. If the incoming packets are real-time traffic, then they will be forwarded at this same fixed rate as well. Therefore, Lea discloses a system that can have a fixed forwarding rate.

19. In response to Applicant's argument that Lea fails to teach or suggest not allocating buffer space before a packet is sent, the Examiner respectfully disagrees. Again, Lea says nothing about allocating buffer space before any packets are sent. Also, in looking at Fig. 10, it appears that there aren't even any buffers after the switch matrix, so no system would allocated system in buffers that don't exist. Also, most of the buffering seems to occur prior to the switching, and even this buffering is set after it has been determined after certain parameters have been determined. See also col. 5, lines 17-30.

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20. In response to applicant's argument that the Office Action doesn't provide a reference for the specific teaching of polling a status register, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The combination of the two references suggests that the acknowledgments could be stored in these registers. It would have been obvious to check or poll these registers to see if there was a successful transmission, or there would not point in keeping these registers and it would be a waste of memory resources.

### ***Conclusion***

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Lee whose telephone number is (703)305-7349. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (703)305-4744. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

TLL



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